

**THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-1996.M5

MDR Tracking Number: M5-04-3819-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 07-06-04. Date of service 07-01-03 was not timely filed per Rule 133.308(e)(1) therefore this date of service will not be reviewed by the Medical Review Division.

The IRO reviewed office visits, range of motion measurements, chiropractic manipulative treatment, therapeutic processes-group, unlisted therapeutic procedure, massage, required report, therapeutic exercises, mechanical traction, physical performance test, muscle testing and supplies rendered from 09-03-03 through 11-17-03 that were denied based "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 08-02-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 97024 dates of service 08-18-03 and 08-26-03 denied with denial code F/M456 - maximum number of physical therapy services has been exceeded for date of service. No reimbursement is recommended for dates of service 08-18-03 and 08-26-03 for CPT code 97024 as the maximum allowed number of modalities of four (4) were exceeded. CPT code 99080-73 date of service 10-15-03 denied with denial code V, however, this is a required TWCC report. The explanation of benefits submitted by the respondent with date of payment 08-13-04 indicated CPT code 99080-73 to have been paid in the amount of \$15.00 (MAR) by check 06740003. No additional reimbursement recommended for code 99080-73 for date of service 08-13-04.

This Findings and Decision is hereby issued this 27th day of September 2004.

Debra L. Hewitt
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Medical Review Division

DLH/dlh

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NOTICE OF INDEPENDENT REVIEW DECISION

August 27, 2004

Re: IRO Case # M5-04-3819 amended 9/10/04

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic, who is licensed by the State of Texas, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits
3. Reviews 10/2/03, 21/16/03, 2/11/04
4. MRI report of the brain 6/30/03
5. CT scan report of the abdomen 6/27/03
6. Ultrasound report gallbladder 7/25/03
7. Reports 7/15/03, 7/17/03, 10/15/03, 8/22/03
8. D.C. medical necessity report
9. D.C. initial report 6/12/03
10. TWCC work status report
11. D.C. subsequent reports 2003
12. Range of motion reports
13. SOAH report 6/28/02
14. D.C. treatment notes
15. D.C. therapeutic procedure charts
16. Exercise grid charts
17. Musculoskeletal exam 11/4/03
18. Initial FCE 11/4/03
19. D.C. testing report

History

The patient injured his neck, back, head, abdomen, wrist, and elbow in ____ when while trimming a tree the bucket he was in dropped some 30 feet slamming him into the boom truck. The safety harness kicked in and pulled him back up again, then let him go, causing him to slam into the boom truck again. He was air lifted to the hospital, where x-rays were obtained, and the patient was given medication and told to return to work with restrictions. The patient then sought chiropractic care. He has been treated with medication, physical therapy, chiropractic manipulation and therapeutic exercise.

Requested Service(s)

OV, ROM, Chiropractic manipulative treatment, therapeutic processes – group, unlisted therapeutic procedure, massage, required report, therapeutic exercises, mechanical traction, physical performance test, muscle testing, supplies 9/3/03 / 11/17/03

Decision

I agree with the carrier's decision to deny the requested services.

Rationale

The patient had an adequate course of treatment prior to the dates in dispute, with minimal relief of symptoms or improved function. A 9/4/03 PPE indicated that after about three months of intense treatment he was still performing at a sedentary to light capacity, as he had been initially. Also on 9/4/03, the patient's cervical spine ROMs were shown to have little or no improvement, and his VAS for pain still went as high as 8/10.

On 10/14/03 the patient's VAS was still as high as 7/10 after about four months of treatment, with difficulty washing his hair, carrying a 10 pound weight, putting on clothes and reaching for objects on a shelf. He complained of constant severe pain in his mid to low back, left arm and head. These subjective complaints and

objective findings indicate that treatment failed to be beneficial after months of intense treatment.

On 11/3/03, the last date in this dispute, the patient reported that he could only lift very light weights, and that his pain had restricted his social life, and his sex life was nearly absent because of pain. He could stand no longer than ten minutes. He also stated that he was in "very severe" pain at this office visit.

It is clear from the records provided for this review that the D.C.'s treatment prior to and including the dates in dispute failed to give any lasting relief of symptoms or improved function. Treatment did not produce measurable or objective improvement, failed to be directed at a return to work, and was not conducted in the least intensive setting. The documentation indicates that the patient received about 36 treatments from 6/12/03 – 9/4/03. This was more than enough to produce measurable results, but treatment failed. The documentation does not support the treatment in dispute.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.